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Paper No. 8

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**MAR 14 1995**

In re Application of	:	SPECIAL PROGRAM
R. Holly et al	:	EXAMINATION UNIT
Application No. 08/252,491	:	LETTER REGARDING DECLARATION
Filed: June 1, 1994	:	
Attorney Docket No. 93-12C3	:	

This is in response to the communication filed January 24, 1995.

Receipt is acknowledged of a Change Of Address filed July 5, 1994, and information disclosure statements filed July 5, 1994 and October 27, 1994.

On June 1, 1994, the application was deposited with an unexecuted declaration.

On July 12, 1994, Application Division mailed a Notice stating that the application had been accorded a filing date, and requiring an oath or declaration in compliance with 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e).

On October 19, 1994, Application Division mailed another Notice stating that the application had been accorded a filing date, and requiring an oath or declaration in compliance with 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e).

In response, on January 24, 1995, the present communication was filed. Applicant argues that a declaration was included with a response filed on August 29, 1994. As evidence thereof, applicants submitted, inter alia, a copy of their Monthly Statement Of Deposit Account. Applicants request that the application be considered as being completed on August 29, 1994. A copy of the response, including, inter alia, a cover letter, a declaration and a petition for extension of time, was also submitted.

On March 7, 1995, in response to a telephone communication from Senior Legal Advisor F. Silverberg, a copy of the post card receipt acknowledging receipt by the Office of, inter alia, a declaration on August 29, 1994, was submitted by facsimile transmission.

Upon review of the record, no declaration deposited August 29, 1994, has been found among the papers in the application file. However, the evidence is convincing that a response was filed on August 29, 1994, and included a declaration, which was subsequently misplaced in the Office.

In view of the above, the request is granted. The copy of the declaration submitted with the communication filed January 24, 1995, will be used for examination purposes.

The Notice mailed October 19, 1994 was sent in error and is hereby vacated.

A review of the finance records for this application reveals that the surcharge, which was previously charged to counsel's deposit account, has been refunded. Since an executed declaration in compliance with 37 CFR 1.63 was not present on filing, a surcharge is required.

The application is being forwarded to the Office of Finance for charging the \$130.00 surcharge to counsel's deposit account No. 26-0290.

Thereafter, the application will be returned to Application Division for further processing with a filing date of June 1, 1994, using the application papers filed June 1, 1994 and the copy of the declaration submitted January 24, 1995.

*Fred A. Silverberg*

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